IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4429 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DILIPKUMAR CHIMANLAL SHAH

Versus

STATE OF GUJARAT

Appearance:

MR SH SANJANWALA for Petitioners
MR BY MANKAD, A.P.P. for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE H.H.MEHTA

Date of decision: 15/12/2000

ORAL JUDGEMENT

The petitioners have by preferring this writ petition under Article 226 of the Constitution of India challenged the First Information Report bearing Prohibition C.R. No.155/91 of Kapadwanj Rural Police

Station which is at Annexure-"D" with a request to quash the proceedings initiated on the basis of that F.I.R

2. When this matter was taken up for final hearing, learned advocate for both the parties jointly submitted that in view of the latest judgment of this Court (Coram: - A.K. Trivedi, J.) dated 4-12-2000 rendered in Cri. Misc. Application No. 6714/2000 this writ petition be allowed and the impugned F.I.R. which is at Annexure - D be quashed and set aside without assigning any reason in this order of this Court.

3. Having heard the learned advocates for both the parties and on going through the F.I.R. which is at Annexure-D and also on going through the grounds stated in the memo of this petition and more particularly Sections 70A and 81 of the Bombay Prohibition Act, 1949 this Court is of the clear view that when the goods were under transit by passing through the territory of the Gujarat State the offence cannot be said to have been committed by the petitioners.

4. In view of what is stated hereinabove, this writ petition is allowed and the writ of certiorari be issued for quashing and setting aside the F.I.R. bearing Prohibition CR No. 155/91 of Kapadwanj Rural Police Station challenged in this petition. Rule is made absolute.

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/JVSatwara/